S.B.Criminal Misc. Second Bail Appl. No.4128/2006
(Ashok Choudhary vs. State of Rajasthan)

Date of order : January 09, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.Vineet Kumar Mathur, for the petitioner.
Mr.Rameshwar Dave, P.P.

This is second bail application filed by the petitioner.

Heard learned counsel for the petitioner and the Public Prosecutor for the State.

It is contended by the learned counsel for the petitioner that the prosecution evidence have been recorded and the prosecution has closed its evidence and now the matter before the trial court is at the stage of recording the statement of the accused under section 313 Cr.P.C. but since the presiding officer of the trial court has proceeded on four months' leave and, therefore, the trial could not proceed.

On careful perusal of the material available on record, the contraband poppy straw alleged to have been recovered from the petitioner is of commercial quantity and the provisions of section 37 of the NDPS Act are attracted. From the evidence,

prima facie it cannot be said at this stage that the petitioner has not committed the offence. In the circumstances, therefore, only on the ground of the presiding officer being on leave, the bail cannot be granted.

The bail application filed by the petitioner under section 439 Cr.P.C. is, therefore, dismissed.

(H.R.PANWAR),J.

m.asif/-